

App. No. 09/842,372
Amdt. Dated 2/3/04
Reply to Office Action of 10/01/02

REMARKS

In the specification, the paragraphs [0002], [0036], [0039], [0040], [0041], [0042] and [0045] have been amended to overcome the Examiner's rejections.

Claims 19 – 25 have been rejected because the specification while being enabling for facial products such as powders, creams, concealers, blemish control materials, etc. and eye products in the form of mascara and eyeliner, the specification does not enabling for a eye product in the form of a powder, cream, concealers, blemish control material . However all of the products contemplated in claims 19-25 have a similar consistency to the facial products described. There are eye products well known in the art to have a similar consistency as facial products and that are able to be applied with applicators such as a rollerball such as cream based eye shadow and the like.

Claims 1, 2, 4, 6, 32 and 33 have been rejected by the Examiner as being anticipated by Hillelson. Hillelson does disclose a dual ended container; however Hillelson does not disclose a roller ball feature which is essential to the present invention as claim 1 currently amended reads. The present invention also incorporates a unique spring for the roller ball. In the roller ball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume, lip gloss or the like. The spring-loaded ball is responsive to opening the outlet end upon the application of force against the ball. The present invention is a dual ended cosmetic container that can exists as two separate entities. Furthermore, the storage

tube 23 of Hillelson is different than the present invention because storage tub 23 in Hillelson is adapted to store products unrelated in a compartment in the tube and does not have two cosmetic products in a single device. Therefore, because Hillelson does not incorporate a rollerball consisting of a spring-biased applicator the present invention is not anticipated by Hillelson. Rollerballs are well known in the art but the cited patent does not suggest a spring biased rollerball for fragrance and the like.

Claims 1, 3-6 and 11 are rejected by the Examiner as being anticipated by Kendall. Unlike Kendall, the present invention as amended contemplates having at least one of the receptacles having a rollerball applicator for dispensing product from that receptacle. With regard to claim 5, Kendall discloses a dual ended container that is designed to frictionally grip the end of two cosmetic sticks. Kendall also contemplates the use of fingers 9 and 11 provide for longitudinally adjusting the retaining members 5 so that the fingers 9 are resilient and either retaining member may be removed from the body 1 to adapt a new cosmetic stick to be fitted therein and substitutes for the butt of a consumed stick or to permit of the introduction of a new stick and a new retaining member. The present invention does not contemplate a centerpiece that frictionally grips two cosmetic sticks or a refillable cosmetic stick feature. Furthermore, Kendall does not contemplate a threaded cap or threaded receptacles. With regard to claim 11, Kendall does not contemplate a rollerball applicator with a spring means to exert pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume, lip gloss or the like.

Claims 1-6, 31 and 32 are rejected as being anticipated by Lang. Although Lang may disclose a dual ended container, it does not have a unique spring for the rollerball as

in Claim 1, as currently amended, in the present invention. In the roller ball embodiment of the present invention, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsive to opening the outlet end upon the application of force against the ball.

The arrangement of the present invention is different from Lang. The present invention has a rollerball applicator that is inserted into an orifice unlike Lang which has a ball located on the outside end of the applicator. This is different than Lang, which shows an applicator holding two separate products but no rollerball feature. Lang does not receive a receptacle; the receptacle is part of the barrel. Furthermore Lang utilizes inwardly projecting ribs 12 that extend from the inner surface 13 of the sleeve and, preferably, extend longitudinally over at least a portion of the sleeve's length in order to interfere with applicator exterior to enhance the frictional fit of the applicator in the sleeve. The present invention is a dual ended cosmetic container that can exist as two separate entities because of their arrangement. Furthermore, the present invention contemplates an embodiment with a lip stick applicator being attached to the center sleeve and a receptacle with lip product such as gloss that is contained in the receptacle and the lip stick applicator is dipped into the receptacle to apply the product. Claim 2 is also patentable over Lang. Claim 2 is directed to an embodiment of the invention, which incorporates a rollerball with a unique spring means, and threading ends of receptacles to secure the receptacles to form the applicator. Lang does not have either of these features.

Claim 7 is rejected as being unpatentable over Lang in view of Dulberg. Claim 7 is a dependant claim and thus incorporates everything into the claim form the independent

claim from which it stems. Therefore, claim 7 also contemplates that at least one of the receptacles has a rollerball applicator for dispensing product from that receptacle. The roller ball of the present invention comprises a unique spring for the roller ball. In the roller ball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsive to opening the outlet end upon the application of force against the ball. Lang does not disclose that only one end of the sleeve is provided with a threaded closure, 32 refer to a cap that goes over the ball 28. 32 is a cap that can be screwed on it does not equate to the threaded ends of the receptacle used to screw in the ends into the center sleeve. Furthermore, it is not obvious because in the present invention the caps are the ends each receptacle and are not the coverings of the receptacle as in the prior art. The ends of the receptacles are known as caps in the present invention are threaded but the ends of the receptacles and the receiving ends for the receptacles are threaded. The caps in the prior art are covers for the ends of the applicator, this is very different then the caps in the present invention. Dulberg has caps located on the ends and very different then the present invention all of the "cylinders" are frictionally held in a cylindrical extension of the lipstick inner cylinder unlike the present invention wherein the receptacles are held together by their threaded ends. Moreover, Dulberg contemplates caps such as 24 that are adapted to be screwed onto the other cylinders and not into the other cylinders like the present invention.

Claims 8-10 are rejected as being unpatentable over Lang in view of Coryell. Although Lang discloses a roll-on assembly it is completely different then the roller ball applicator in the present invention. The present invention incorporates a unique spring for

the roller ball. In the roller ball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Therefore, claims 8-10 are not unpatentable over Lang in view of Coryell.

Claim 11, 12, and 14 are rejected as being unpatentable over Lang in view of Moriber et al. Claims 11, 12, and 14 are dependant from claim 1 which teaches dual ended cosmetic applicator and thus contemplate the rollerball applicator. Although Lang discloses a roll-on assembly it is completely different then the rollerball applicator in the present invention. The present invention incorporates a unique spring for the rollerball. In the rollerball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Furthermore, Moriber et al. has a multitude of eye products that are twisted to extend not just a single eye product as in the present invention and Moriber et al. only contemplates the use a plurality of cosmetic sticks by twisting a member to advance the stick and leave the other stick in the recessed position . Moriber et al. is not a single cosmetic product for the eyes or one that can be applied with a rollerball as in the present invention. Therefore, claims 11, 12 and 14 are patentable over Lang in view of Moriber et al.

Claims 13 and 24 are rejected as unpatentable over Lang in view of Moriber et al. and further in view of Pieper et al. As stated above the present invention has a rollerball applicator in the present invention. The present invention incorporates a unique spring for

the rollerball. In the rollerball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Also, the applicator in Lang allows for a "useful combination of a collar turn operated assembly and a roll-on. For example, a push-up lip balm can be combined with a roll-on lip gloss" (lines 48-52 col. 4). Lang contemplates the use of a push-up lip applicator; the present invention contemplates an embodiment that has a second receptacle with a doe foot applicator. As claimed, Lang could not incorporate a doe foot applicator into a push-up lip applicator. Lang would have to be completely changed in order to incorporate such a feature, a feature that is absolutely not contemplated in Lang. Claims 13 and 24 are not obvious in light of the prior art and are patentable.

Claims 11, 14-17 and 25 are rejected as being unpatentable over Lang in view of Younghusband. Each of the above claims is dependant on claim 1. Although Lang discloses a roll-on assembly it is completely different than the rollerball applicator in the present invention. The present invention incorporates a unique spring for the rollerball. In the rollerball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Moreover, the Lang discloses "a hand-held stick applicators for dispensing a supply of material taking the form of a salve, semi-solid, gel, cream, liquid, or the like, to be applied by a rubbing contact with the application surface" Mascara is not applied by rubbing contact with the application surface. Therefore because

the present invention is not obvious in view of Lang, claims 11, 14-17 and 25 are patentable over the prior art.

Claims 26 and 29 are rejected as unpatentable over Lang in view of Trabatonni in view of Ferrari. As stated above, the liquid dispenser in Lang is different then the Although Lang discloses a roll-on assembly it is completely different then the rollerball applicator in the present invention. The present invention incorporates a unique spring for the rollerball. In the rollerball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Therefore claims 26 and 29 are patentable over the prior art. Moreover, Lang discloses

“A dual pack applicator of the present invention can include roll-on and push-up assemblies and thus can carry in an integrated device a variety of product formats and formulas. For example, a dual pack applicator can provide for variation of similar product, i.e., different shades or flavors of lip balm; or alternatively, provide complementary products, i.e. an insect repellent and a hydrocortisone material for treating bug bites. In the latter case, the ability to have a roll-on and semi-solid material dispenser allows for use of many combinations of complementary products”.

Lang does not disclose an unlimited potential of products to be used it the assembly. Lang discloses various products that can be dispensed in a roll-on and a push-up assemblies. Neither method is used for applying nail polish. Therefore claim 26 and 29 are patentable over the prior art.

Claims 27 and 28 are rejected as being unpatentable over Lang in view of Trabattoni and in further view of Ferrari. As stated above the liquid dispenser in Lang is different then the Although Lang discloses a roll-on assembly it is completely different then the rollerball applicator in the present invention. The present invention incorporates

a unique spring for the rollerball. In the rollerball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Therefore claims 26 and 29 are patentable over the prior art. Moreover, Lang discloses

“A dual pack applicator of the present invention can include roll-on and push-up assemblies and thus can carry in an integrated device a variety of product formats and formulas. For example, a dual pack applicator can provide for variation of similar product, i.e., different shades or flavors of lip balm; or alternatively, provide complementary products, i.e. an insect repellent and a hydrocortisone material for treating bug bites. In the latter case, the ability to have a roll-on and semi-solid material dispenser allows for use of many combinations of complementary products”.

Lang does not disclose an unlimited potential of products to be used in the assembly. Lang discloses various products that can be dispensed in a roll-on and a push-up assembly. Neither method is used for applying nail polish. Therefore claim 27 and 28 are patentable over the prior art.

Claims 18-23 and 30 are rejected as being unpatentable over Lang in view of Riley et al. As stated above the rollerball applicator of the present invention is patentably distinct from Lang. the liquid dispenser in Lang is different than the Although Lang discloses a roll-on assembly it is completely different than the rollerball applicator in the present invention. The present invention incorporates a unique spring for the rollerball. In the rollerball embodiment, a spring means exerts pressure on the ball of the ball applicator to urge the ball to a closed position for preventing spillage of perfume there-through. The spring-loaded ball is responsible to opening the outlet end upon the application of force against the ball. Therefore, because the present invention is

patentably distinct over Lang claims 18-23 and 30 are not obvious and are patentable over the prior art.

Claims 32 and 33 are rejected as being unpatentable over Costa in view of Younghusband. Claim 32 as currently amended contemplates a dual ended container with two ends. One end has a lip stick product that extends from the center sleeve outward and has a lip stick cover to protect the lip stick. The other end has an applicator extending therefrom and is adapted to receive a receptacle containing a product. Claim 32 is patentable over Costa which contemplates an assembly that has two opposing applicators rods extending from a base member, with two cover members, each with a reservoir for the appropriate cosmetic. Claim 33, which is a dependant claim, is patentable over Costa because Costa does not contemplate a rollerball assembly.

CONCLUSION

For the foregoing reasons the rejection of the claims should be withdrawn and the application be passed to issue.

Respectfully submitted,



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Amdt. dated 2/3/04

Annotated sheet
showing changes

lead wire assembly

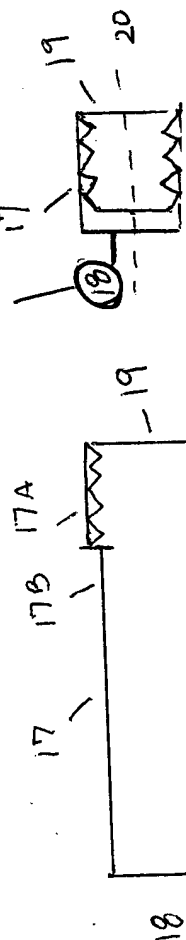


Fig 1C

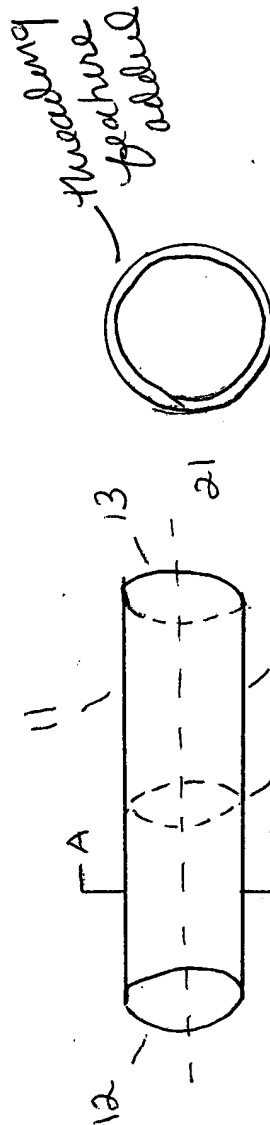
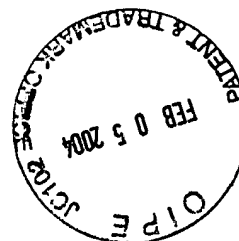


Fig 1B



App. No. 09/842,372

Amtd. dated 2/3/04
Reply to Office action
Amended Sheet showing
Changes.

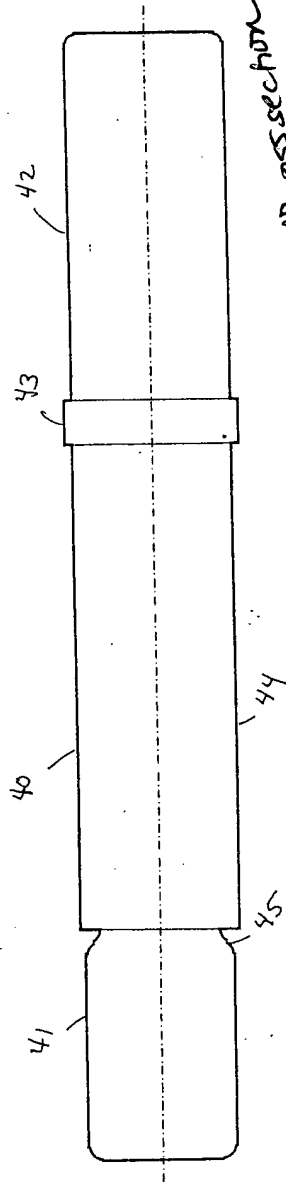


Fig 9

cross section

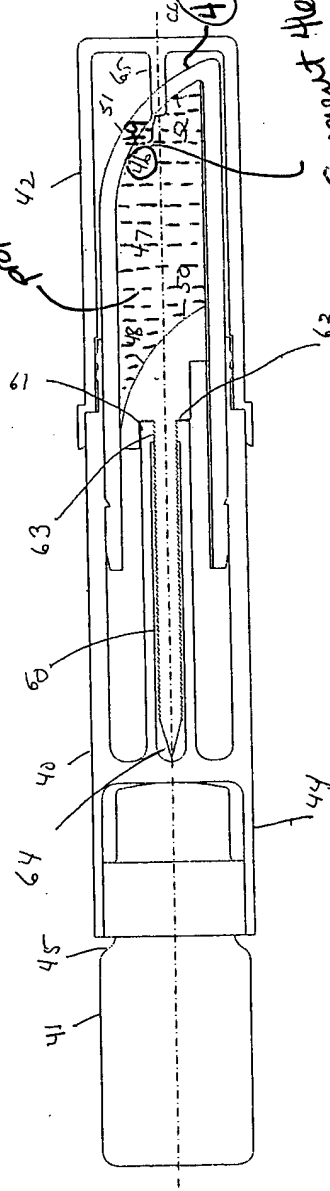


Fig 10

element up applicator surface

element He replaced with number 49

Element He replaced with number 49

